

Message Text

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PAGE 01 STATE 114948

21

ORIGIN AEC-11

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P 312206Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO PRIORITY

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E.O. 11652: GDS

TAGS: TECH, JA

SUBJECT: ABCC

REFS: (A) TOKYO 6593; (B) STATE 244164; (C) TOKYO 5548

1. DRAFT PREPARED BY GOJ RECEIVED MAY 29. INITIAL REVIEW BY INTERESTED US GROUP INDICATES THAT THERE ARE SEVERAL SUBSTANTIVE PROBLEMS WITH JAPANESE APPROACH, ESPECIALLY WHERE THEIR DRAFTS REFERRED TO APPROVAL "BY THE COMPETENT MINISTER" WITHOUT TAKING INTO ACCOUNT APPROVAL OF THESE ACTIONS BY USG. THIS WOULD APPEAR TO GIVE GOJ FINAL CONTROL OVER NEW INSTITUTE IN SEVERAL CRITICAL AREAS, E.G., ARTICLES 6-2, 34, 35, AND 35-2. PARA 5, REF A, QUOTES MATSUURA'S REFERENCE TO THIS PROBLEM BUT WE ARE AFRAID HIS STATEMENT THAT "USG APPROVAL WOULD ALSO BE REQUIRED" WOULD NOT SATISFY EVERYONE AND CONSEQUENTLY IF THIS IS INDEED THE CASE, WE WOULD WANT SUCH A STATEMENT EXPLICITELY SET FORTH IN THE AGREEMENT. ALSO, WE DO NOT CONCUR IN HIS APPRAISAL THAT THE MODE FOR US CONTROL RESTS ON FACT THAT US REPS WILL CONSTITUTE ONE

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PAGE 02 STATE 114948

HALF OF THE GOVERNING COUNCIL, ETC.

2. IN DISCUSSION AMONG REPS OF AEC, STATE AND NAS, ON MAY 30, STATE REPS EXPLAINED THAT NEW INSTITUTE COULD BE ESTABLISHED EITHER BY AGREEMENT (AS ENVISAGED BY TEXT SENT IN REF B), IN WHICH CASE AGREEMENT WOULD HAVE TO BE SENT TO DIET FOR APPROVAL, OR IT COULD BE ESTABLISHED UNDER THE JAPANESE CIVIL CODE AS ENVISAGED IN JAPANESE

COUNTER-PROPOSAL CONTAINED IN DRAFTS JUST RECEIVED. STATE REP EXPLAINED THAT UNDER CIVIL CODE, ONE OF GOJ'S MINISTERS WOULD HAVE TO BE GIVEN AUTHORITY SET FORTH IN DRAFT WITHOUT CORRESPONDING AUTHORITY BEING GIVEN TO USG. GROUP RECOGNIZED THAT EROSION OF US CONTROL MIGHT BE MORE OPTICAL THAN REAL SINCE US WOULD RETAIN A LARGE DEGREE OF CONTROL THROUGH FINANCIAL CONTRIBUTIONS BUT THAT IT WOULD BE EXCEEDINGLY DIFFICULT, IF NOT IMPOSSIBLE, TO JUSTIFY WITHIN USG EXECUTIVE AND LEGISLATIVE BRANCHES THE APPARENT LOSS OF CONTROL OVER THE INSTITUTE WHILE CONTRIBUTING LARGE AMOUNTS OF USG FUNDS TO OPERATE IT. STATE REPS WENT ON TO EXPLAIN THAT US COULD STILL EXERCISE CONTROL OVER INSTITUTE'S ACTIVITIES THROUGH ITS USG APPOINTED OFFICERS PROVIDED IN ARTICLES 12, 13, AND 14.

3. THE ALTERNATIVE TO ESTABLISHING THE INSTITUTE UNDER JAPANESE CIVIL CODE WOULD BE BY AGREEMENT SUBJECT TO DIET APPROVAL. THIS WOULD PERMIT EQUAL CONTROL BY USG AND IS MORE PALATABLE TO AEC AND NAS. WE RECOGNIZE, HOWEVER, THAT THIS ROUTE MIGHT ENCOUNTER SERIOUS OPPOSITION IN THE DIET (POSSIBLY REQUIRING CHANGES IN THE NATURE OF THE INSTITUTE TO REQUIRE IT TO PROVIDE TREATMENT AND WELFARE BENEFIT TO SURVIVORS). IT ALSO WOULD BE A MORE TIME-CONSUMING PROCESS PROBABLY REQUIRING GOJ TO CONTRIBUTE ADDITIONAL FUNDS ON AN AD HOC BASIS FOR THE NEXT FISCAL YEAR'S OPERATION AS WAS THE CASE IN THE RECENT JAPANESE CONTRIBUTION.

4. US TEAM PREPARED TO BEGIN NEGOTIATIONS WITH JAPANESE IN TOKYO WEEK OF JUNE 16 AS REQUESTED IN REF A BUT WOULD LIMITED OFFICIAL USE

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PAGE 03 STATE 114948

GREATLY APPRECIATE EMBASSY'S ADVICE ON THESE QUESTIONS AT AN EARLY DATE IN ORDER THAT WE MAY PREPARE PROPERLY FOR NEGOTIATIONS. SINCE US-JAPANESE DRAFTS SO FAR APART AT THIS TIME, WE DO NOT EXPECT TO BE ABLE TO COMPLETE NEGOTIATIONS BY END OF JULY AS PARA 6, REF C, INDICATED THE JAPANESE WISH TO DO. HOWEVER, WE BELIEVE THAT IT IS IMPORTANT TO BEGIN NEGOTIATIONS AT THE EARLIST POSSIBLE DATE. WE WOULD RECOMMEND THAT EACH GOVERNMENT MAKE BUDGET

PREPARATIONS BASED ON AN EQUAL ASSUMPTION OF COSTS AND ON THE EXPECTATION THAT THE NEW INSTITUTE WILL COME INTO BEING BY APRIL 1, 1975.

5. IN ADDITION, IT WOULD BE HELPFUL IF THE EMBASSY COULD FURNISH ON AN URGENT BASIS THAT SECTION OF THE JAPANESE CIVIL CODE UNDER WHICH THE INSTITUTE WOULD BE ESTABLISHED AS PROPOSED IN THEIR DRAFT.

6. US GROUP HOPES TO HAVE A SECOND MEETING ON JUNE 5. ACCORDINGLY, WE WOULD APPRECIATE RECEIVING EMBASSY'S COMMENTS BEFORE THAT TIME. KISSINGER

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